

## CHAPTER 456. CEMETERY ASSOCIATIONS

### CEMETERY CORPORATIONS

#### Act 87 of 1855

AN ACT relative to burying grounds; and to impose certain duties upon the department of commerce.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—Am. 1982, Act 103, Imd. Eff. Apr. 19, 1982.

*The People of the State of Michigan enact:*

#### **456.1 Cemetery corporation; incorporators.**

Sec. 1. That any 5 or more persons of lawful age, may organize themselves into a corporation, by such name as they shall adopt, for the purpose of acquiring land for a burial ground for the dead, to dispose of rights of burial therein, and to fence, improve, ornament and keep the same in suitable condition, in the manner hereinafter provided.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1717;—CL 1871, 3373;—How. 4728;—CL 1897, 8362;—CL 1915, 11122;—CL 1929, 10401;—CL 1948, 456.1.

#### **456.2 Cemetery corporation; acquisition of land, encumbrance, payment; lease, restriction.**

Sec. 2. Such corporation shall have power to acquire and hold in fee, or for a term of years, so much land as may be necessary for their burying ground: Provided, That no land thus held shall be in any way encumbered by such corporation: And provided further, That the purchase price thereof, and interest thereon, or the rent reserved therefor, and the costs of fencing, improving and platting the same, shall be paid out of the funds first realized from the sale of rights of burial: And provided, further, That any lease of land to such corporations, shall contain a covenant on the part of the lessor, that the land thus leased shall never be used by him, his heirs or assigns, for any other than burial purposes, and that all rights of burial acquired under such corporation, shall remain unimpaired, although such lease may expire, or such corporation may forfeit the rights acquired under such lease, by reason of non-compliance with the conditions thereof.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1718;—Am. 1865, Act 282, Imd. Eff. Mar. 20, 1865;—CL 1871, 3374;—How. 4729;—CL 1897, 8363;—CL 1915, 11123;—CL 1929, 10402;—CL 1948, 456.2.

#### **456.3 Right of burial; definition.**

Sec. 3. A right of burial under this act shall be, in respect to any corporation organized under this act, the right to bury the dead in and upon a parcel of land of the size specified in the by-laws of any corporation organized under this act.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1719;—CL 1871, 3375;—How. 4730;—CL 1897, 8364;—CL 1915, 11124;—CL 1929, 10403;—CL 1948, 456.3.

#### **456.3a Right of burial; granting in tax delinquent lands prohibited.**

Sec. 3a. No rights of burial shall at any time be granted or sold by such corporation upon any lands which are delinquent for taxes or special assessments.

**History:** Add. 1941, Act 168, Eff. Jan. 10, 1943;—CL 1948, 456.3a.

#### **456.4 Right of burial; disposal by member.**

Sec. 4. Any member of any corporation organized under this act, wishing to dispose of any right of burial owned by him, shall procure for the purchaser a grant of such right from said corporation; and at the same time such member shall also relinquish to such corporation all claim he may have to such right of burial.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1720;—CL 1871, 3376;—How. 4731;—CL 1897, 8365;—Am. 1903, Act 65, Eff. Sept. 17, 1903;—CL 1915, 11125;—CL 1929, 10404;—CL 1948, 456.4.

#### **456.5 Member; right to vote.**

Sec. 5. Any person owning a right of burial in ground controlled by a corporation organized under this act, and having the right to use the same, shall be deemed a member of the corporation, and shall have the right to vote at all corporate meetings unless in arrears for assessments.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1721;—Am. 1867, Act 99, Imd. Eff. Mar. 25, 1867;—CL 1871, 3377;—How. 4732;—CL 1897, 8366;—Am. 1903, Act 65, Eff. Sept. 17, 1903;—CL 1915, 11126;—CL 1929, 10405;—CL 1948, 456.5.

#### **456.6 Meeting to incorporate; warrant.**

Sec. 6. Upon application in writing of any 3 of the persons aforesaid to the district or municipal court of the judicial district or municipality in which such burying ground is to be situated, the court shall issue a warrant to either one of the applicants, directing him or her to call a meeting of the persons wishing to become incorporated, which warrant shall contain the substance of the application, and shall state the time and place of holding the meeting. The meeting shall be called in obedience to such warrant, by posting up notice containing the substance of the warrant in at least 2 public places in the township, city, or village, in which such burying ground is to be situated at least 10 days before the time of holding such meeting.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1722;—CL 1871, 3379;—How. 4733;—CL 1897, 8367;—CL 1915, 11127;—CL 1929, 10406;—CL 1948, 456.6;—Am. 1991, Act 153, Imd. Eff. Nov. 25, 1991.

#### **456.7 Meeting to incorporate; affidavit of notice.**

Sec. 7. The person to whom the aforesaid warrant is directed shall, after having called said meeting, attach to said warrant a copy of the notice accompanied by his affidavit showing that it is a true copy of the notice posted up by him, and also showing when and where such notices were posted, and the same shall be presented to such meeting and filed by the clerk elected thereat.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1723;—CL 1871, 3380;—How. 4734;—CL 1897, 8368;—CL 1915, 11128;—CL 1929, 10407;—CL 1948, 456.7.

#### **456.8 Board of trustees; election; terms.**

Sec. 8. Any 7 or more persons who meet in pursuance of the notice described in section 7 may elect by ballot a board of trustees consisting of at least 9 but not more than 12 members. The first trustees elected shall be divided as nearly as possible into 3 equal groups with terms of each group as follows:

- (a) 1 group for 1 year.
- (b) 1 group for 2 years.
- (c) 1 group for 3 years.

Upon expiration of the terms of the members first elected, successors shall be elected in a like manner for terms of 3 years each and shall serve until their successors are elected and have filed their acceptance. However, if any corporation now organized under this act has any trustees whose term of office does not expire at the date of its next annual meeting, it shall then elect only the number of trustees that will increase its board to at least 9 but not more than 12 members. At the election, the persons having the highest number of votes for trustee shall be considered elected.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1724;—CL 1871, 3381;—Am. 1873, Act 128, Imd. Eff. Apr. 22, 1873;—Am. 1881, Act 105, Imd. Eff. Apr. 22, 1881;—How. 4735;—CL 1897, 8369;—CL 1915, 11129;—CL 1929, 10408;—CL 1948, 456.8;—Am. 1996, Act 407, Imd. Eff. Oct. 21, 1996.

#### **456.9 Officers; election; sexton or superintendent, appointment.**

Sec. 9. The board of trustees shall meet within 10 days after each annual meeting, and elect from their own number a president, vice-president, clerk, and treasurer, and from time to time may appoint a sexton or superintendent of grounds, and such other officers as may be deemed necessary.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1725;—CL 1871, 3382;—Am. 1873, Act 128, Imd. Eff. Apr. 22, 1873;—Am. 1881, Act 105, Imd. Eff. Apr. 22, 1881;—How. 4736;—CL 1897, 8370;—CL 1915, 11130;—CL 1929, 10409;—CL 1948, 456.9.

#### **456.10 Officers; vacancies.**

Sec. 10. A majority of the officers required to be chosen by ballot, in any corporation organized under this act, shall have power to fill any vacancy in office by appointment.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1726;—CL 1871, 3383;—How. 4737;—CL 1897, 8371;—CL 1915, 11131;—CL 1929, 10410;—CL 1948, 456.10.

#### **456.11 Officers; acceptance of office, bond.**

Sec. 11. All persons elected or appointed to any office under any corporation organized under this act shall, within 10 days after such election or appointment, file with the clerk a written acceptance of the office together with a bond, if required, or said office will be vacant.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1727;—CL 1871, 3384;—How. 4738;—CL 1897, 8372;—CL 1915, 11132;—CL 1929, 10411;—CL 1948, 456.11.

#### **456.12 Officers; notice of election.**

Sec. 12. Any person attending any meeting for the election of officers of any corporation organized under this act, and elected thereat, to any office, shall be deemed to have been duly notified of his election; the clerk

of such corporation shall, within 2 days after the election of any person to office, who was not present at the election, notify such person of his election.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1728;—CL 1871, 3385;—How. 4739;—CL 1897, 8373;—CL 1915, 11133;—CL 1929, 10412;—CL 1948, 456.12.

#### **456.13 Treasurer; bond.**

Sec. 13. The treasurer shall give a bond to the corporation, with sufficient sureties, to be approved by the president thereof, for the faithful discharge of his duties, which bond shall be filed with the clerk.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1729;—CL 1871, 3386;—How. 4740;—CL 1897, 8374;—CL 1915, 11134;—CL 1929, 10413;—CL 1948, 456.13.

#### **456.14 Officers; compensation.**

Sec. 14. The president, clerk, treasurer and superintendent of grounds of any corporation organized under this act shall receive such a compensation for their services as shall be allowed by a majority of the members of the corporation present at a corporate meeting, and no more: Provided, That if the members neglect to fix such compensation, the same may be fixed, from time to time, by the board of trustees.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1730;—CL 1871, 3387;—How. 4741;—Am. 1885, Act 119, Imd. Eff. May 27, 1885;—CL 1897, 8375;—Am. 1903, Act 65, Eff. Sept. 17, 1903;—CL 1915, 11135;—CL 1929, 10414;—CL 1948, 456.14.

#### **456.15 By-laws, rules and regulations.**

Sec. 15. The board of trustees of any corporation organized under this act, shall have the power, by a 2/3 vote of the members elect, to make all needful by-laws, rules, and regulations, not inconsistent with this act, that may be necessary to the proper management of the affairs of such corporation, and may by a like vote amend the same.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1731;—CL 1871, 3388;—Am. 1881, Act 39, Imd. Eff. Mar. 18, 1881;—How. 4742;—CL 1897, 8376;—CL 1915, 11136;—CL 1929, 10415;—CL 1948, 456.15.

#### **456.16 Certificate of organization; contents; signature; filing certificate with department of commerce.**

Sec. 16. Within 1 week after the organization of any corporation organized under this act, the clerk shall make out a certificate of the organization of such corporation, specifying the corporate name thereof, the officers chosen at the first meeting; which certificate shall be signed by the president and clerk of such corporation, and forthwith file such certificate with the corporation and securities bureau of the department of commerce.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1732;—CL 1871, 3389;—How. 4743;—CL 1897, 8377;—CL 1915, 11137;—CL 1929, 10416;—CL 1948, 456.16;—Am. 1982, Act 103, Imd. Eff. Apr. 19, 1982.

#### **456.17 Laying out burial grounds; maps; filing map with department of commerce; certificate.**

Sec. 17. Before any corporation organized under the provisions of this act shall issue certificates of rights of burial, they shall cause their burial ground to be laid out in such form as they may choose, and cause 2 maps thereof to be made, which maps shall accurately describe the land belonging to such burying ground, its boundaries and location, with the lots or subdivisions named or numbered thereon, and also their size, situation and extent, with the width extent, and location of all the streets, alleys, or walks in such burying ground, which maps shall be prepared under the supervision and direction of the president and clerk of such corporation, and certified by them to be a correct map of their burying ground. One of the above maps shall be filed with the clerk of the corporation, and the other with the corporation and securities bureau of the department of commerce. The department of commerce shall give said corporation a certificate under the seal of the department of commerce, showing that such map has been received and duly filed, which certificate shall be filed with the clerk of said corporation.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1733;—CL 1871, 3390;—How. 4744;—CL 1897, 8378;—CL 1915, 11138;—CL 1929, 10417;—CL 1948, 456.17;—Am. 1982, Act 103, Imd. Eff. Apr. 19, 1982.

#### **456.18 Actions and suits; common seal.**

Sec. 18. All corporations organized under this act, shall be capable in their corporate name, of suing and being sued, appealing, prosecuting, and defending, to final judgment and execution, in any of the courts of this state or elsewhere, and to have a common seal which they may alter at pleasure.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1734;—CL 1871, 3391;—How. 4745;—CL 1897, 8379;—CL 1915, 11139;—CL 1929, 10418;—CL 1948, 456.18.

#### **456.19 Reincorporation under act; lot owners in public burying ground, incorporation; transfer of rights from municipalities.**

Sec. 19. Any burying ground corporation heretofore organized under any law of this state, upon complying with the provisions of the preceding sections of this act, shall possess all the powers, and be subject to all the restrictions of corporations originally organized under this act; and the owners of lots in any public burying ground in this state may associate together and organize themselves into a corporation under the provisions of this act, whenever a majority of such owners shall take the proceedings provided by sections 5, 6, 7 and 8, and thereafter other owners may become members of such corporation by a vote of the board of officers of the corporation, on application to be admitted to membership. Cities, villages and towns may transfer to any corporation, organized under this act, all rights remaining to them in any public burying ground.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1735;—Am. 1867, Act 99, Eff. June 27, 1867;—CL 1871, 3392;—How. 4746;—CL 1897, 8380;—CL 1915, 11140;—CL 1929, 10419;—CL 1948, 456.19.

#### **456.20 Saving clause.**

Sec. 20. Any right that may have accrued to any member, stockholders or lot owner of any burial ground corporation, or public burying ground heretofore existing in this state, shall not be affected or impaired by reason of this act.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1736;—Am. 1867, Act 99, Eff. June 27, 1867;—CL 1871, 3393;—How. 4747;—CL 1897, 8381;—CL 1915, 11141;—CL 1929, 10420;—CL 1948, 456.20.

#### **456.21 Vacation of burying ground; procedure.**

Sec. 21. Whenever it may become necessary to vacate any burying ground, the property of any corporation organized under this act, such corporation may, by a majority of its members present at any corporate meeting, direct the president and clerk of such corporation to petition the circuit court for the county in which such burying ground is situated, for leave to vacate the same; and such circuit court may make such order in the premises as shall be just and proper: Provided, No final order shall be made within 6 months from the time of filing such petition, and without due proof of publication of notice of such petition, for 12 successive weeks, in such newspaper as may have been designated by said court for that purpose.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1737;—CL 1871, 3394;—How. 4748;—CL 1897, 8382;—Am. 1903, Act 65, Eff. Sept. 17, 1903;—CL 1915, 11142;—CL 1929, 10421;—CL 1948, 456.21.

#### **456.22 Forfeited right of burial; disposal.**

Sec. 22. It shall be lawful for any corporation organized under this act, to dispose of that part of any forfeited right of burial, which has not been actually used as a repository of the dead, in like manner as if the same had never been granted.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1738;—CL 1871, 3395;—How. 4749;—CL 1897, 8383;—CL 1915, 11143;—CL 1929, 10422;—CL 1948, 456.22.

#### **456.23 Unused burial rights; sale on non-payment of assessment; reconveyance.**

Sec. 23. Any corporation organized under this act may be authorized by the circuit or district court of the county, upon the like petition as is required in the twenty-first section of this act, and after 6 months from the filing of such petition, to redispense of unused burial rights on which assessment shall have remained unpaid for 7 years or more: Provided, That if personal service is not made on the owner or owners of the burial right then the same procedure as is provided by law for substituted service in circuit courts shall be used.

At any time during the period of 2 years from and after the entering of the order of termination and forfeiture, the owner of any burial space or spaces shall be entitled to a reconveyance to him by the board of trustees on the payment of the costs and expenses incurred in said proceeding, and not exceeding \$15.00 for the care and maintenance of such space or spaces. If such reconveyance is not sought and obtained during said 2 year period, then and thereupon the board of trustees shall be authorized and empowered to offer such spaces for sale in accordance with the rules and regulations of said board governing the sale of lots and spaces in the cemetery concerned. The proceeds derived therefrom shall be used to defray the expenses incurred in accordance with the provisions of this act.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1739;—CL 1871, 3396;—How. 4750;—CL 1897, 8384;—CL 1915, 11144;—CL 1929, 10423;—Am. 1947, Act 153, Eff. Oct. 11, 1947;—CL 1948, 456.23.

#### **456.24 Assessment; voting; notice of meeting.**

Sec. 24. At any corporate meeting of the members, after notice as provided by its bylaws, those members present, when they deem it necessary, may vote an assessment upon the members of such corporation by a majority vote of the members present, which assessment shall be made by the board of trustees of such corporation, as near as may be in proportion to the value of the respective rights of burial owned by such members. Notice of a proposed assessment setting forth the date and place of meeting and the method of assessment and amount thereof shall be sent by certified mail to all known addresses of living members at least 30 days before date set for the meeting.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1740;—Am. 1867, Act 99, Eff. June 27, 1867;—CL 1871, 3397;—How. 4751;—CL 1897, 8385;—Am. 1903, Act 65, Eff. Sept. 17, 1903;—CL 1915, 11145;—CL 1929, 10424;—CL 1948, 456.24;—Am. 1958, Act 41, Eff. Sept. 13, 1958.

#### **456.25 Assessment; record.**

Sec. 25. After an assessment has been made, as provided for in the next preceding section, such corporation shall cause a record to be made of such assessment, showing the day when the same is made, with a list of the names of all the members of such corporation, and the amount assessed to each member; a copy of the assessment shall be furnished by the clerk to the treasurer of such corporation.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1741;—CL 1871, 3398;—How. 4752;—CL 1897, 8386;—Am. 1903, Act 65, Eff. Sept. 17, 1903;—CL 1915, 11146;—CL 1929, 10425;—CL 1948, 456.25.

#### **456.26 Assessment; notice; payment, enforcement.**

Sec. 26. Within 1 month from the time of making any assessment, the clerk of the corporation making the same, shall cause public notice of the same to be given, in such manner as the board of trustees shall direct, directing each member of such corporation to pay his assessment to the treasurer of such corporation within 30 days from the date of such notice; and such assessment shall be, and hereby is declared, a personal liability against such member and the payment thereof may be enforced by action of debt or assumpsit in the name of such corporation.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1742;—Am. 1867, Act 99, Eff. June 27, 1867;—CL 1871, 3399;—How. 4753;—CL 1897, 8387;—Am. 1899, Act 216, Eff. Sept. 23, 1899;—Am. 1903, Act 65, Eff. Sept. 17, 1903;—CL 1915, 11147;—CL 1929, 10426;—CL 1948, 456.26.

#### **456.27 Duties of officers defined by by-laws.**

Sec. 27. The powers and duties of all officers holding office under any corporation organized under this act, shall be defined by the by-laws of such corporation, except so far as they are defined in this act.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1743;—CL 1871, 3400;—How. 4754;—CL 1897, 8388;—CL 1915, 11148;—CL 1929, 10427;—CL 1948, 456.27.

#### **456.28 Treasurer; duties.**

Sec. 28. It shall be the duty of the treasurer of any corporation organized under this act, to receive and safely keep all moneys belonging to such corporation, and pay them out on the order of the clerk, countersigned by the president of such corporation.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1744;—CL 1871, 3401;—How. 4755;—CL 1897, 8389;—CL 1915, 11149;—CL 1929, 10428;—CL 1948, 456.28.

#### **456.29 Records of rights of burial; form.**

Sec. 29. A record shall be kept by each corporation organized under this act, of the rights of burial disposed of by such corporation, in the following form:

No. The ..... for ....., to them paid by ....., of ....., hereby grant unto ..... right of burial in their grounds, and embracing in reference to this map, ....., subject, nevertheless, to assessment and forfeiture, as provided by law.

Dated, ..... 18..... .

Countersigned, ....., President. .... Clerk.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1745;—CL 1871, 3402;—How. 4756;—CL 1897, 8390;—CL 1915, 11150;—CL 1929, 10429;—CL 1948, 456.29.

#### **456.30 Records of rights of burial; bound blanks, index.**

Sec. 30. It shall be the duty of every corporation organized under this act, to procure a sufficient number of blanks of the form above prescribed, bound in convenient form, with an index in which shall be entered alphabetically the names of the purchasers of rights of burial in the grounds of such corporation.



**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1746;—CL 1871, 3403;—How. 4757;—CL 1897, 8391;—CL 1915, 11151;—CL 1929, 10430;—CL 1948, 456.30.

#### **456.31 Price of lots or rights of burial.**

Sec. 31. The price of lots or rights of burial in any grounds belonging to such corporation may be, from time to time, determined and fixed by a 2/3 vote of the board of trustees.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1747;—CL 1871, 3404;—Am. 1881, Act 39, Imd. Eff. Mar. 18, 1881;—How. 4758;—CL 1897, 8392;—CL 1915, 11152;—CL 1929, 10431;—CL 1948, 456.31.

#### **456.32 Price of lots or rights of burial; payment receipt.**

Sec. 32. Upon payment to the treasurer of any corporation organized under this act, the price of any right of burial determined as above, it shall be the duty of such treasurer to give to the purchaser a receipt therefor, which receipt shall accurately describe the premises on which payment has been made.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1748;—CL 1871, 3405;—How. 4759;—CL 1897, 8393;—CL 1915, 11153;—CL 1929, 10432;—CL 1948, 456.32.

#### **456.33 Certificate of right of burial.**

Sec. 33. Upon presenting to the clerk of any corporation organized under this act, a receipt from the treasurer thereof, in the form prescribed in the next preceding section of this act, it shall be the duty of such clerk to issue a certificate of right of burial, signed by such clerk and countersigned by the president of such corporation, in the form prescribed in the twenty-ninth section of this act.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1749;—CL 1871, 3406;—How. 4760;—CL 1897, 8394;—CL 1915, 11154;—CL 1929, 10433;—CL 1948, 456.33.

#### **456.34 Potter's field.**

Sec. 34. Any corporation organized under this act, shall have power to set off a part of their burial ground as a potter's field, and under proper regulations permit the dead to be buried therein.

**History:** 1855, Act 87, Imd. Eff. Feb. 12, 1855;—CL 1857, 1750;—CL 1871, 3407;—How. 4761;—CL 1897, 8395;—CL 1915, 11155;—CL 1929, 10434;—CL 1948, 456.34.

#### **456.34a Witness fee; prohibition.**

Sec. 34a. A corporation organized under this act shall not charge a fee for witnessing the lowering of a casket into the ground.

**History:** Add. 1996, Act 111, Imd. Eff. Mar. 5, 1996.

#### **456.35 Endowment care fund; use; investment; corporate trustees; accounts; "endowment care" defined.**

Sec. 35. (1) The board of trustees of any corporation organized under this act shall provide for and establish an endowment care fund, the income or proceeds from which shall be perpetually devoted for endowment care.

(2) Contributions, subscriptions, or bequests to an endowment care fund, whether made by owners of lots, or rights of burial, or by other persons, shall be invested in safe and productive securities as the board of trustees determines, or deposited in the savings department of any state, national bank, or state or federally chartered savings and loan association and only the annual interest shall be used for endowment care.

(3) Any corporation organized under this act may also be named and constituted and may act as trustee of any gift, grant, bequest, or conveyance of personal property, to the corporation, in trust for the perpetual care, maintenance and preservation of, and the planting and cultivation of trees, shrubs, flowers and plants upon any cemetery lot or lots, or part of the cemetery owned or held and maintained by the corporation, and the care, preservation, repair, upkeep, and replacement of any monument, tomb, mausoleum, fence, or other structure, or for any of the purposes described in this section that are provided in the instrument or writing creating the trust. A trust shall not be considered invalid because contravening any statute or rule of law forbidding accumulations of income.

(4) On or before June 30 of each year an account of all proceeds received during the preceding calendar year from sales of interment rights, entombment rights, or columbarium rights made after March 10, 1967, shall be filed with the cemetery commission, along with an account, certified to by the trustee or trustees, of all amounts deposited the calendar year previous, into the endowment care fund.

(5) As used in this section, "endowment care" means all general work necessary to keep the cemetery property in a presentable condition at all times, including, but not limited to, the cutting of grass at reasonable intervals; raking, cleaning, filling, seeding, and sodding of graves; replacement, pruning, or removal of shrubs

and trees in order to assure access to interment rights; and the repair and maintenance of enclosures, buildings, drives, walks, and the various memorial gardens.

**History:** Add. 1881, Act 39, Imd. Eff. Mar. 18, 1881;—How. 4762;—CL 1897, 8396;—CL 1915, 11156;—Am. 1917, Act 308, Eff. Aug. 10, 1917;—CL 1929, 10435;—CL 1948, 456.35;—Am. 1966, Act 338, Eff. Mar. 10, 1967;—Am. 2003, Act 91, Imd. Eff. July 24, 2003.

#### **456.35a Endowment care fund; creation; minimum requirements; administration; investment; prohibited use; legal remedies.**

Sec. 35a. (1) The endowment care fund required to be set aside under section 35 for the purpose of keeping and maintaining the grounds of cemeteries established after March 10, 1967, or mausoleums not located in the confines of a dedicated cemetery and are established after March 10, 1967, shall be created by the deposit of \$25,000.00 into the fund before any sale of burial rights, entombment rights, or columbarium rights.

(2) With respect to all cemeteries or mausoleums, whether established before or after March 10, 1967, the fund shall be added to by payment, perpetually, each month of not less than 15% of all proceeds received during the previous month from the sales of burial rights, entombment rights, or columbarium rights made after March 10, 1967. No total deposit for a single adult burial right sale or assignment shall be less than \$20.00. Notwithstanding the minimum amount required to be paid into the endowment care fund, any cemetery which has an endowment care fund of more than \$125,000.00 and exceeding \$10,000.00 per acre of the developed portion of the cemetery may apply to the cemetery commission for a waiver of the 15% or \$20.00 minimum requirement. The cemetery commission shall take testimony and investigate as it considers advisable pursuant to the application. If the cemetery commission determines that the applicant has an endowment care fund of more than \$125,000.00 and exceeding \$10,000.00 per acre of the developed portion of the cemetery and that the income from the fund is sufficient to meet the then current cost of keeping the applicant's cemetery in good condition, it shall grant a waiver of the 15% and \$20.00 minimum requirement and allow such modifications with respect to contributions to the fund as it considers advisable.

(3) The endowment care fund may be administered by the board of directors, or by the fund's trustees, individual or corporate, as the fund may select under the terms of a trust instrument or declaration. If the fund selects trustees to administer the endowment care fund, the fund's liability shall be limited to reasonable care in the selection. Directors may serve as trustees if at least 2 members of the board are selected.

(4) The funds established under this section shall be invested subject to the provisions of section 7302 of the estates and protected individuals code, 1998 PA 386, MCL 700.7302.

(5) No portion of the funds required to be set aside under section 35 shall be used directly or indirectly for salaries of the officers or directors of the cemetery association or corporation, only the earnings from the funds shall be used for endowment care.

(6) In addition to all other remedies at law or in equity, the attorney general and the circuit court of the county in which the cemetery is located shall have all the powers and jurisdiction granted to the attorney general and court as to trusts covered by 1915 PA 280, MCL 554.351 to 554.353. The remedies granted include all endowment care fund trusts without regard to uncertainty or indefiniteness of its beneficiaries.

**History:** Add. 1966, Act 338, Eff. Mar. 10, 1967;—Am. 2003, Act 91, Imd. Eff. July 24, 2003.

#### **456.35b Endowment care fund; exemption from care fund requirements.**

Sec. 35b. Earth interment cemeteries of 10 acres or less in size which are owned and operated exclusively by nonprofit entities existing prior to March 10, 1967 and in which burials have taken place prior to such date, shall be exempt from the care fund requirements of sections 35 and 35a, except that reports shall be made as required by such sections if the cemetery owners maintain care or memorial funds.

**History:** Add. 1968, Act 254, Imd. Eff. July 1, 1968.

#### **456.36 Additional land; taxation; conveyance.**

Sec. 36. Any corporation organized or to be organized under this act may own and hold land heretofore or hereafter acquired for additional burial grounds and such other land heretofore or hereafter acquired as may be needed for the convenient or proper operation of its burial grounds. Land heretofore or hereafter acquired by said corporation and not being a part of its burial grounds shall not be exempt from taxation. Any corporation organized under this act shall not convey any part or portions of land owned by it if such land is part of the plan or design of the cemetery adopted and recorded as provided in section 17 of this act or secured for the purpose of becoming part of such plan or design unless at least \$5,000.00 for each acre so conveyed is allocated to the improvement or memorial fund provided for by section 35 of this act.

**History:** Add. 1897, Act 75, Eff. Aug. 30, 1897;—CL 1897, 8397;—CL 1915, 11157;—CL 1929, 10436;—CL 1948, 456.36;—Am.

1964, Act 53, Eff. Aug. 28, 1964.



**CEMETERY CORPORATIONS; EXTENSION OF CORPORATE LIFE**  
**Act 185 of 1929**

AN ACT to provide for the extension in perpetuity or for a term of years, of the term of existence of corporations or associations, organized under Act No. 87 of the Public Acts of 1855, as amended, being sections 456.1 to 456.36, the corporate term of existence of which has heretofore expired, or may hereafter expire by limitation; to fix the duties and liabilities of such renewed corporations or associations; to impose certain duties upon the department of commerce; and to repeal certain acts and parts of acts.

**History:** 1929, Act 185, Eff. Aug. 28, 1929;—Am. 1982, Act 108, Imd. Eff. Apr. 19, 1982.

*The People of the State of Michigan enact:*

**456.51 Continuance of corporate existence.**

Sec. 1. It shall be lawful for any corporation or association under Act No. 87 of the Public Acts of 1855, as amended, being sections 456.1 to 456.36, whose corporate term of existence has expired, or may hereafter expire by limitation, at a special meeting of the trustees de jure or de facto of said corporation or association, called for that purpose, to direct by resolution the continuance of its corporate existence in perpetuity or for such further term as they may determine, which resolution or direction shall express the date of the commencement and the termination of said extended term, if said extension be for a term of years. Such special meeting may be called by the president or clerk of the corporation or association, whose term of existence has not expired, or by either of the persons acting as president or clerk of the corporation or association, whose term of corporate existence has expired by limitation, and notice of such meeting shall be given to all the de jure or de facto trustees of said corporation or association at least 10 days prior to the date of such meeting by delivering to each of said trustees, personally, a written or printed notice of such meeting, or by leaving such notice at the residence of such trustee. The trustees de jure or de facto of any corporation or association, the same being either a de jure or a de facto corporation, organized under Act No. 87 of the Public Acts of 1855, as amended, and which corporation or association has heretofore acquired and held and still holds, or which may hereafter acquire and hold land conveyed or leased to it in its corporate name, may at such special meeting determine by resolution to reorganize such corporation, or association and thereby such reorganization shall take, assume, and keep the name of such corporation or association as the same has before been known, and such reorganization of such corporation or association so directed and made shall be and remain a corporation with all powers, duties, and obligations of a corporation or association newly made or incorporated under said act and its amendments. Upon the adoption of such resolution, which said resolution shall have the concurrence of 2/3 of such trustees in cases where the term of existence of such corporation shall not have expired, and of 4/5 of such trustees in case the term of existence thereof shall have expired, it shall be the duty of the de jure or de facto president and clerk of such corporation or association, together with a sufficient number of the other trustees to constitute the number of trustees above required for the adoption of such resolution, to make, sign, and acknowledge duplicate articles of reorganization or incorporation, in which shall be set forth the name, the object, and the number and names of the trustees of the new organization, and which shall be the same as in the corporation or association to be reorganized and which shall set forth further that the purpose is to hold, keep, and retain the corporate name and continue the corporate existence of the corporation in perpetuity or for a specified term when its pending term shall have expired, or in case the term of existence of such corporation or association has already expired, that the purpose is to organize anew and to take up, renew, and continue the corporate existence of such corporation or association in perpetuity, or for a specified term to commence from the time of such expiration. One of such articles of reorganization shall be filed with the corporation and securities bureau of the department of commerce, and the other to be kept by said corporation or association. Either of said duplicate articles of reorganization or a certified copy of the record of the same shall be prima facie evidence of the facts therein recited and of the validity and existence of the said corporation or association. The corporation or association so made, reorganized, or renewed, shall be a corporation to all intents and purposes, having all the powers, and being subject to all the restrictions of corporations originally organized under the said act or under said act as amended, and the same shall succeed to, own, and hold all the property or rights of action held, owned, and had by the corporation or association which is reorganized, prior to its renewal or reorganization, and shall be liable for all its debts, liabilities, and obligations as fully and completely as if it had not been reorganized and its corporate existence had been beyond any question, both de jure and de facto: Provided, however, That no greater or additional rights, powers, or privileges shall be conferred by the continuance or reorganization of any corporation or association hereunder in perpetuity than would be conferred upon such corporation or association continued or reorganized for a term of years, it being the legislative intent in

permitting organizations hereunder in perpetuity to relieve such corporations or associations from the necessity of continuing or reorganizing after a limited term of years but not to confer any other or additional vested right. The officers and trustees of the corporation or association renewed or reorganized shall hold and continue in their offices until their successors shall be duly elected or appointed and qualified.

**History:** 1929, Act 185, Eff. Aug. 28, 1929;—CL 1929, 10437;—CL 1948, 456.51;—Am. 1982, Act 108, Imd. Eff. Apr. 19, 1982.

**Former law:** See Act 154 of 1893.

#### **456.52 Extension of term of existence of corporation.**

Sec. 2. It shall be lawful for any corporation heretofore reorganized or hereafter reorganized under the provisions of this act, to amend its articles of reorganization from time to time as to the extension of the term of existence of such corporation, at a special meeting of the trustees of said corporation called for that purpose, to direct by resolution the extension of its corporate existence, which resolution shall express such extension to be in perpetuity or the date of the commencement and termination of said term. Such special meeting shall be called and notice thereof given in the same manner as is provided in section 1 of this act for the calling and giving of notice of the special meeting mentioned in said section. Upon the adoption of such resolution, which shall have the concurrence of 2/3 of such trustees, it shall be the duty of the president and clerk of such corporation or association, together with a sufficient number of the other trustees to make 2/3 of a full board of trustees, to make, sign, and acknowledge in duplicate amended articles of reorganization, in which shall be set forth the name, the object, and the number and names of the trustees of the corporation; and which shall further set forth that the purpose of the reorganization is to hold, keep, and retain the corporate name and continue the existence of the corporation in perpetuity or for a specified term when its pending term shall have expired. One of such duplicate articles of reorganization shall be filed in the corporation and securities bureau of the department of commerce. The other duplicate shall be kept by said corporation or association. Either of said duplicate articles or a certified copy of the record of the same shall be prima facie evidence of the facts therein recited and of the validity and existence of said corporation or association. The corporation whose term of existence is so extended shall be a corporation to all intents and purposes, having all the powers and being subject to all the restrictions of corporations originally organized under Act No. 87 of the Public Acts of 1855, as amended, and the same shall succeed to, own, and hold all the property or rights of action held, owned, or had by the corporation or association, whose term of existence is so extended, prior to the extension of its existence, and shall be liable for all its debts, liabilities, and obligations.

**History:** 1929, Act 185, Eff. Aug. 28, 1929;—CL 1929, 10438;—CL 1948, 456.52;—Am. 1982, Act 108, Imd. Eff. Apr. 19, 1982.

## **RURAL CEMETERY CORPORATIONS**

### **Act 12 of 1869**

AN ACT to authorize and encourage the formation of corporations to establish rural cemeteries; to provide for the care and maintenance thereof; to provide for the revision and codification of the laws relating to cemeteries, mausoleums, crypts, vaults, crematoriums, and other means of disposing of the dead; to make an appropriation therefor; and to impose certain duties upon the department of commerce.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—Am. 1929, Act 215, Eff. Aug. 28, 1929;—Am. 1982, Act 110, Imd. Eff. Apr. 19, 1982.

*The People of the State of Michigan enact:*

#### **456.101 Cemetery corporations; incorporators, name.**

Sec. 1. That any number of persons not less than 10, who shall by articles of agreement in writing, associate themselves according to the provisions of this act, under any name assumed by them, for the purpose of purchasing land for a cemetery in this state, and for fencing, laying out, improving, maintaining and establishing the same and who shall comply with sections 2 and 3 of this act, shall, with their successors and assigns, constitute a body politic or corporate, under the name assumed by them in their articles of association: Provided, however, That no 2 corporations shall assume the same name.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3408;—How. 4763;—CL 1897, 8399;—CL 1915, 11160;—CL 1929, 10440;—CL 1948, 456.101.

#### **456.102 Articles; signing, acknowledgment, contents.**

Sec. 2. The articles of agreement of every such association shall be signed by the persons associating in the first instance, and acknowledged before some person authorized by the laws of this state, to take the acknowledgment of deeds, and shall state—

1st The amount of land which it is proposed to purchase for such cemetery, and the town and county in which it is situated.—

2nd The amount of capital which it is estimated will be required to make such purchase, and to fence and improve the grounds, and the number of shares into which the same shall be divided.—

3rd The name by which such corporation shall be known.—

4th The number of persons who shall constitute the board of directors, being not less than 5 nor more than 13.—

5th The names of those who shall constitute the first board of directors, and the name of the first treasurer.—

6th The names of the subscribers to the articles of association, and the number of shares subscribed by each, towards the required capital.—

7th The term of duration of such corporation, which shall not exceed 30 years.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3409;—How. 4764;—CL 1897, 8400;—CL 1915, 11161;—CL 1929, 10441;—CL 1948, 456.102.

#### **456.103 Payment by subscribers to articles of association.**

Sec. 3. The subscribers to such articles of association, shall at the time of subscription thereto, severally pay to the treasurer named therein at least 20 per cent of the amount subscribed by each, and when the whole amount of capital mentioned in said articles shall be subscribed and said portion thereof actually paid in, the directors shall cause a copy of their articles of association, together with an affidavit of such treasurer that 20 per cent of the amount of capital subscribed has actually been paid in, to be filed in the corporation and securities bureau of the department of commerce.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3410;—Am. 1875, Act 219, Imd. Eff. May 3, 1875;—How. 4765;—CL 1897, 8401;—CL 1915, 11162;—CL 1929, 10442;—CL 1948, 456.103;—Am. 1953, Act 167, Eff. Oct. 2, 1953;—Am. 1982, Act 110, Imd. Eff. Apr. 19, 1982.

#### **456.104 Annual meeting; election of board of directors; right to vote; special meetings.**

Sec. 4. The annual meeting of every such corporation shall be held on the second Monday of May in each year, unless some other day shall be fixed by the by-laws thereof, and in such case, it shall be held upon the day so fixed. Such meeting shall elect a board of directors, who shall serve for the ensuing year, and until their successors shall be chosen, and transact such other business of the corporation, as may properly come before it. At such meeting the owners of scrip, hereinafter provided for, shall have the right to vote, either in

person or by proxy, in proportion to the amount of scrip held by them respectively, each owner thereof being entitled to 1 vote for each 10 dollars of scrip. Special meetings of any such corporation may be provided for by the by-laws thereof, and shall be held when called in accordance with such provision.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3411;—How. 4766;—CL 1897, 8402;—Am. 1899, Act 126, Imd. Eff. June 15, 1899;—CL 1915, 11163;—CL 1929, 10443;—CL 1948, 456.104.

#### **456.105 Board of directors; selection of officers.**

Sec. 5. It shall be the duty of said board of directors to choose from their own number a president and vice-president, and also to elect suitable persons as treasurer and secretary of such corporation, and from time to time to appoint a superintendent and such other subordinate officers as may be required by the by-laws.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3412;—How. 4767;—CL 1897, 8403;—CL 1915, 11164;—CL 1929, 10444;—CL 1948, 456.105.

#### **456.106 Board of directors; powers.**

Sec. 6. The board of directors shall have the general management of such corporation and shall have the power,—

To purchase land for the use of such association, but for no other purpose, and not exceeding in all 300 acres;

To levy assessments upon the subscribers to the articles of association, not exceeding the amount severally subscribed by them, payable at such times as the directors shall determine, and to enforce the collection thereof either by suit or forfeiture;

To cause to be prepared a plan or design for laying out such lands so purchased by them for cemetery purposes; and when such plan or design is adopted by them, it shall be their duty to cause the same to be recorded in a book to be kept by them for that purpose, and it shall not thereafter be altered or modified, unless by a 2/3 vote of all the directors, after a special notice of such proposed change shall have been given, and after said proposition shall have been submitted in writing to the board at a meeting thereof, to be held prior to the one at which the vote upon such proposed change shall be taken; Provided, That no such alteration shall be made which shall interfere with rights of burial already granted;

To dispose of rights of burial, fix the prices thereof, make conditions in relation to burials within the cemetery grounds, and guarantee to grantees of burial rights the care and preservation of the grounds;

To establish such rules and regulations for the control and management of the grounds and all matters and things incident thereto, as they shall deem for the best interests of the corporation;

To sell any part or portion of the lands owned by such corporation, in case the same shall not be occupied or required for burial purposes, or for the uses of such cemetery;

To invest the moneys received from the sale of burial rights, and to prescribe, from time to time the interest or dividends which shall be paid to holders of the scrip of such corporation, subject to the restrictions hereinafter named.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3413;—How. 4768;—CL 1897, 8404;—CL 1915, 11165;—CL 1929, 10445;—CL 1948, 456.106.

#### **456.106a Conveyance of land.**

Sec. 6a. The corporation shall not convey any part or portions of land owned by it if the land is part of the plan or design of the cemetery adopted and recorded as provided in section 6 unless at least \$5,000.00 for each acre so conveyed is allocated to the irrevocable endowment fund established in section 7 of this act.

**History:** Add. 1964, Act 54, Eff. Aug. 28, 1964.

#### **456.107 Board of directors; duties, reports, endowment funds, accounting.**

Sec. 7. The board of directors shall preserve good order in the grounds of such cemetery; provide for the laying out and embellishing of the same, and see that they are well-kept and in good condition; establish an irrevocable endowment fund or funds to produce income for future use in the keeping of the grounds and niches, crypts and mausoleum space of such cemeteries in good condition. The fund shall be governed by the terms and provisions of section 7a; cause to be issued scrip or certificates to each subscriber to the articles of the association, which certificates shall specify the amount paid into the capital stock by such subscriber, such scrip to be personal property and transferable by the holder thereof, under such regulations as the board of directors may adopt; and make a report to the annual meeting of the condition of the association, and its receipts and disbursements for the previous year. On or before June 30 of each year an account of all adult burial rights sold and all proceeds received during the preceding calendar year from sales of interment rights, entombment rights or columbarium rights made after the effective date of this 1966 amendatory act, shall be

filed with the state cemetery commission of the department of commerce, along with an account, certified to by the trustee or trustees, of all amounts deposited the calendar year previous, into the irrevocable endowment fund.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3414;—Am. 1875, Act 219, Imd. Eff. May 3, 1875;—How. 4769;—CL 1897, 8405;—CL 1915, 11166;—CL 1929, 10446;—Am. 1941, Act 330, Eff. Jan. 10, 1942;—CL 1948, 456.107;—Am. 1956, Act 207, Eff. Aug. 11, 1956;—Am. 1966, Act 339, Eff. Mar. 10, 1967.

#### **456.107a Endowment care funds; minimum requirements; administration; investment; legal remedies; “perpetual care” defined.**

Sec. 7a. (1) The fund required to be set aside under section 7 for perpetual care regarding cemeteries established after March 10, 1967, or mausoleums which are not located in the confines of a dedicated cemetery and are established after March 10, 1967, shall be created by the deposit of \$25,000.00 into the fund before any sale of burial rights, entombment rights or columbarium rights is made.

(2) With respect to all cemeteries or mausoleums, whether established before or after March 10, 1967, the fund shall be added to by payment, perpetually, each month of not less than 15% of all proceeds received during the previous month from the sales of burial rights, entombment rights, or columbarium rights made after March 10, 1967. No total deposit for a single adult burial right sale or assignment shall be less than \$20.00. Notwithstanding the minimum amount required to be paid into the endowment fund from the proceeds of sales of lots or burial rights, any cemetery that has an endowment fund of more than \$125,000.00 and exceeding \$10,000.00 per acre of the developed portion of the cemetery, may apply to the cemetery commission for a waiver of the 15% or \$20.00 minimum requirement. The cemetery commission shall take testimony and investigate as it considers advisable pursuant to the application. If the cemetery commission determines that the applicant has an endowment fund of more than \$125,000.00 and exceeding \$10,000.00 per acre of the developed portion of the cemetery and that the income from the fund is sufficient to meet the then current cost of keeping the applicant's cemetery in good condition, it shall grant a waiver of the 15% and \$20.00 minimum requirement and it shall grant appropriate modifications with respect to contributions to the fund.

(3) No portion of the funds required to be set aside under section 7 shall be used directly or indirectly for salaries of the officers or directors of the cemetery association or corporation and only the earnings from the funds shall be used for perpetual care.

(4) The endowment care fund may be administered by the board of directors itself, or by the trustees, individual or corporate, as it may select under the terms of a trust instrument or declaration. If it selects trustees to administer the fund, its liability shall be limited to reasonable care in the selection. Directors may serve as trustees if at least 2 members of the board are selected.

(5) The funds established under this section shall be invested subject to section 7302 of the estates and protected individuals code, 1998 PA 386, MCL 700.7302.

(6) In addition to all other remedies at law or in equity that any interested party may have, the attorney general and the circuit court of the county in which the cemetery is located shall have all the powers and jurisdiction granted to the attorney general and court as to trusts covered by 1915 PA 280, MCL 554.351 to 554.353. The remedies granted include all endowment care fund trusts without regard to uncertainty or indefiniteness of its beneficiaries.

(7) As used in this section, “perpetual care” means all general work necessary to keep the cemetery property in a presentable condition at all times, including, but not limited to, the cutting of grass at reasonable intervals; raking, cleaning, filling, seeding, and sodding of graves; replacement, pruning, or removal of shrubs and trees in order to assure access to interment rights; and the repair and maintenance of enclosures, buildings, drives, walks, and the various memorial gardens.

**History:** Add. 1956, Act 207, Eff. Aug. 11, 1956;—Am. 1966, Act 339, Eff. Mar. 10, 1967;—Am. 2003, Act 90, Imd. Eff. July 24, 2003.

#### **456.108 Tax exemption.**

Sec. 8. All the lands of said corporation enclosed and set apart for cemetery purposes, and all rights of burial therein, shall be wholly exempt from taxation of any kind whatsoever.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3415;—How. 4770;—CL 1897, 8406;—CL 1915, 11167;—CL 1929, 10447;—CL 1948, 456.108.

#### **456.109 Burial rights; granting in lands subject to lien or tax delinquent lands prohibited.**

Sec. 9. No mortgage, or other lien or incumbrance, shall be executed upon any of the lands of such corporation, actually used for burial purposes, and no rights of burial upon any mortgaged lands of such



corporation, lands which are delinquent for taxes or special assessments or lands to which such corporation does not have title in fee, shall at any time be granted or sold by it.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3416;—How. 4771;—CL 1897, 8407;—CL 1915, 11168;—CL 1929, 10448;—Am. 1941, Act 169, Eff. Jan. 10, 1942;—CL 1948, 456.109.

#### **456.110 Highways, sewers or other public thoroughfares through grounds; right to purchase additional property.**

Sec. 10. No streets, highways, railways, sewers or canals shall be opened or constructed through the grounds of such corporation, without the assent of the board of directors, granted at a meeting of such board, called for the purpose of considering the propriety of granting such assent: Provided, That such assent shall not be required when lands owned, used or controlled by said corporation are taken under condemnation proceedings by the state, or any county, city or village for the purpose of widening an established street or highway: Provided further, That any such corporation whose property has been so condemned, shall have the right to purchase additional property for cemetery purposes within the corporate limits of any such village or city.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3417;—How. 4772;—CL 1897, 8408;—CL 1915, 11169;—Am. 1921, Act 177, Eff. Aug. 18, 1921;—Am. 1925, Act 32, Eff. Aug. 27, 1925;—CL 1929, 10449;—CL 1948, 456.110.

#### **456.111 Saloons and amusements prohibited.**

Sec. 11. After any such corporation shall have been formed, and their cemetery site shall have been purchased, no saloon or place of entertainment shall thereafter be set up or established for the sale of intoxicating drinks, and no sporting festival shall be held within 1/4 of a mile of the entrance to the grounds of such corporation.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3418;—How. 4773;—CL 1897, 8409;—CL 1915, 11170;—CL 1929, 10450;—CL 1948, 456.111.

#### **456.112 Burial rights; transfer, rights of surviving spouse and next of kin.**

Sec. 12. All rights of burial granted by such corporation shall be transferable and as fully alienable as any other personal property in this state, subject only to such conditions in reference thereto as shall be prescribed by the board of directors and subject to rights of the surviving spouse and next of kin now existing at law or in equity as to any individual burial space or grave in which there is an actual interment.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3419;—How. 4774;—CL 1897, 8410;—CL 1915, 11171;—CL 1929, 10451;—CL 1948, 456.112;—Am. 1956, Act 207, Eff. Aug. 11, 1956.

#### **456.113 Repealed. 1977, Act 67, Imd. Eff. July 20, 1977.**

**Compiler's note:** The repealed section pertained to arrests by employees of cemetery corporation.

#### **456.114 Use of firearms in cemetery; entering over fence; penalty.**

Sec. 14. No person shall use firearms upon the grounds of any cemetery owned and inclosed by any such corporation, nor hunt game therein. No person shall enter into such inclosed cemetery by climbing or leaping over or through any fence or wall around the same, nor direct or cause any animal to enter therein in any such manner. Any person offending against any of the provisions of this section shall be punished by a fine not exceeding 50 dollars or by imprisonment not exceeding 3 months, or by both, in the discretion of the court.

**History:** 1869, Act 12, Imd. Eff. Feb. 19, 1869;—CL 1871, 3421;—Am. 1875, Act 218, Eff. Aug. 3, 1875;—How. 4776;—CL 1897, 8412;—CL 1915, 11173;—CL 1929, 10453;—CL 1948, 456.114.

#### **456.114a Witness fee; prohibition.**

Sec. 14a. A corporation established under the provisions of this act shall not charge a fee for witnessing the lowering of a casket into the ground.

**History:** Add. 1996, Act 110, Imd. Eff. Mar. 5, 1996.

#### **456.115 Perpetual care fund; receipts; investment; bond; account.**

Sec. 15. All corporations established under the provisions of this act may receive and hold any grant, donation or bequest made to them for the purpose of perpetually caring for and maintaining the lots of said donors, and may apply the income thereof under the direction of the board of directors for the improvement, embellishment and care of the ground, and the different lots, tombs and monuments. Such funds so received by grant, donation or bequest shall be kept in a separate fund and shall constitute a perpetual care or repair fund, the income of which shall be devoted to the perpetual keeping of the lots, monuments, markers and tombs of the donors in order. Such funds shall be held in trust and the principal shall not be encroached upon



or the income be used for any purpose except that to which it is devoted. Any and all funds received by grant, donation or bequest by any corporation or association formed under the provisions of this act shall be invested by the board of directors in any of the investments authorized in section 7 hereof. From this fund so created there shall be drawn annually and credited to each donor, such an amount of the total income as the amount donated by the donor bears to the income of the entire amount contributed for the purposes of this section. The treasurer of every association or corporation formed under the provisions of this act, shall furnish annually to the board of directors a bond in double the amount of all moneys received under the provisions of this section, which bond shall provide for the safekeeping of all money, bonds, mortgages or securities, that the said treasurer shall render an account annually of all moneys received by him under the provisions hereof and pay and deliver all moneys, bonds and securities to his successor in office, said bond to be approved by a majority vote of and members-elect of the board of directors.

**History:** Add. 1903, Act 209, Eff. Sept. 17, 1903;—CL 1915, 11175;—CL 1929, 10455;—Am. 1941, Act 330, Eff. Jan. 10, 1942;—CL 1948, 456.115.

#### **456.116 Non-profit corporation.**

Sec. 16. Any corporation organized under this act may, by suitable provision in its articles of association, or by suitable amendment thereto filed in the same manner as required hereunder for the filing of the articles of association, provide that it is a non-profit corporation and may operate and conduct business as such.

**History:** Add. 1953, Act 167, Eff. Oct. 2, 1953.

**Former law:** See section 16 of Act 12 of 1869 and section 16 of Act 215 of 1929.

#### **456.117 Charter not deemed forfeited; filing articles; affidavit, report.**

Sec. 17. Notwithstanding the provisions of any other laws, the charter of any corporation organized under this act shall not be deemed to be forfeited and the existence of such corporation shall not be deemed to be terminated because of its failure to file annual reports with any state official and/or to pay annual fees as required by any law of this state, provided that prior to July 1, 1954, such corporation shall file, or cause to be filed, with the corporation and securities commission true copies of its articles of association, any amendments thereto, and the affidavit of its treasurer, as required by section 3 hereof, duly authenticated by the clerk of the county in which such instruments were filed, and shall file therewith an affidavit of 1 of its officers setting forth that it has continued to exist and function as a corporation since its organization under the provisions of this act, and shall also file therewith the current annual report and pay such fee as is required by law, and thereafter such corporation shall file all annual reports and pay such fees as shall be required by any applicable law.

**History:** Add. 1953, Act 167, Eff. Oct. 2, 1953.

**Compiler's note:** Original section 17 of Act 12 of 1869, which attempted to confer the power of eminent domain, was held unconstitutional in *Portage Township Board of Health v. Van Hoesen*, 87 Mich. 533, 535 N.W. 894 (1891).

#### **456.118 Corporate name.**

Sec. 18. Prior to the filing by any corporation, in accordance with section 17, of the instruments thereby required with the corporation and securities commission, the corporation shall ascertain from the commission whether its corporate name is in conflict with that of any other corporation whose articles of association or articles of incorporation have previously been filed with the commission. If, in the judgment of the commission, there shall be a conflict in corporate names, then the corporation filing under the provisions of the section shall amend its name by adding thereto the name of the locality in which it is organized or operating, or in such other manner as shall be approved by the corporation and securities commission to distinguish it from any corporation whose articles have previously been filed as aforesaid.

**History:** Add. 1953, Act 167, Eff. Oct. 2, 1953.

**Compiler's note:** Original section 18 of Act 12 of 1869, which attempted to confer the power of eminent domain, was held unconstitutional in *Portage Township Board of Health v. Van Hoesen*, 87 Mich. 533, 535 N.W. 894 (1891).

#### **456.119 List of corporations; compilation; forwarding to corporation and securities commission.**

Sec. 19. Upon instructions from the corporation and securities commission, every county clerk shall forthwith compile a list of corporations whose articles have been filed in his office in accordance with the provisions of this act, and shall forthwith forward such list, together with the last known address of the corporations, to the corporation and securities commission, which shall forthwith notify every such corporation of the provisions and requirements of this act, as amended, by mailing such notice addressed to the corporation at its last known address as given by the county clerk.

**History:** Add. 1953, Act 167, Eff. Oct. 2, 1953.

**Compiler's note:** Original section 19 of Act 12 of 1869, which attempted to confer the power of eminent domain, was held unconstitutional in *Portage Township Board of Health v. Van Hoesen*, 87 Mich. 533, 535 N.W. 894 (1891).

**RURAL CEMETERY CORPORATIONS; EXTENSION OF CORPORATE LIFE**  
**Act 14 of 1903**

AN ACT to provide for the extension of the term of existence of corporations or associations organized under Act No. 12 of the Public Acts of 1869, as amended, being sections 456.101 to 456.119 of the Michigan Compiled Laws, the corporate term of which has heretofore expired or which may hereafter expire by limitation; to fix the duties and liabilities of such renewed corporations or associations; and to impose certain duties upon the department of commerce.

**History:** 1903, Act 14, Imd. Eff. Mar. 26, 1903;—Am. 1982, Act 111, Imd. Eff. Apr. 19, 1982.

*The People of the State of Michigan enact:*

**456.151 Continuance of corporate existence.**

Sec. 1. It shall be lawful for any corporation or association organized under Act No. 12 of the Public Acts of 1869, as amended, being sections 456.101 to 456.119 of the Michigan Compiled Laws, whose corporate term of existence has expired or may hereafter expire by limitation, at a special meeting of the board of directors of said corporation or association called for that purpose, to direct the continuance of its corporate existence for a further term not exceeding 30 years from the expiration of its former term, which resolution or direction shall express the date of the commencement and the termination of said extended term. Such special meeting may be called by the president, vice-president, treasurer, or secretary of the corporation or association whose term of existence is about to expire, or by either of the persons acting as president, vice-president, treasurer, or secretary of the corporation or association whose term of corporate existence has expired by limitation, and notice of such meeting shall be given to all the directors of said corporation or association at least 10 days prior to the date of such meeting, by delivering to each of said directors, then living, personally, a written or printed notice of such meeting, or by leaving such notice at the residence of such director, or in lieu of such personal service, by publishing notice of such meeting once in each week for 3 weeks in succession, in a newspaper printed, published, and circulating in the county in which said corporation or association cares for and maintains a cemetery. The board of directors of any corporation or association, the same being either a de jure or a de facto corporation, organized under said act as amended, and which corporation or association has heretofore acquired and held and still holds land conveyed or leased to it in its corporate name, may at such special meeting determine by resolution to reorganize such corporation or association and thereby such reorganization shall take, assume, and keep the name of such corporation or association as the same has before been known, and such reorganization of such corporation or association so made and directed, shall be and remain a corporation with all the powers, duties, and obligations of a corporation or association newly made or organized under said act and its amendments. Upon the adoption of such resolution, which said resolution shall have the concurrence of a majority of such directors in cases where the term of existence of such corporation shall not have expired, and the concurrence of a majority of the directors present at such meeting and not less than 3 in number in case the term of the existence thereof shall have expired, it shall be the duty of the officers of such corporation or association present at such meeting, together with a sufficient number of other directors to constitute the above required number, to make, sign, and acknowledge duplicate articles of association or incorporation, in which shall be set forth the amount of land owned by such corporation or association whose term of existence is about to expire or has expired by limitation, and the county or town in which it is situated, the amount of capital theretofore subscribed for and the number of shares into which the same is divided, the name of the new organization, which shall be the same as that of the corporation or association to be replaced or succeeded, the number of persons who shall constitute the board of directors thereafter, being not less than 5 nor more than 13, the names of those who shall constitute the first board of directors, and the name of the first treasurer, the names of those owning shares in such former corporation or association by subscription, assignment, or otherwise, and the number of shares owned by each, as far as shown by the books of the old corporation or association. Said articles shall further set forth that the corporation is to hold, keep, and retain the corporate name and continue the corporate existence of the corporation whose term is about to expire, or in case the term of existence of such corporation or association has already expired, that the purpose is to organize anew, and to take up, renew and continue the corporate existence of such corporation or association for a term not exceeding 30 years from the date of such expiration. One of such articles of reorganization shall be filed with the corporation and securities bureau of the department of commerce, and the other to be kept by such corporation or association. Either of said duplicate articles of reorganization, or a certified copy of the record of the same shall be prima facie evidence of the facts therein recited, and of the validity and existence of the said corporation or association. The corporation or association so made, reorganized, or renewed, shall be a

corporation to all intents and purposes, having all the powers, and being subject to all the restrictions of the corporation originally organized under said act, or under said act as amended, and the same shall succeed to, own and hold all the property or rights of action held, owned, and had by the corporation or association which it succeeds prior to its renewal or reorganization, and shall be liable for all its debts, liabilities, and obligations as fully and completely as if its former corporate term had not expired, and its corporate existence had been beyond any question, both de jure and de facto. The officers and directors of the corporation or association renewed or reorganized shall hold and continue in their offices until their successors shall be duly elected and qualified.

**History:** 1903, Act 14, Imd. Eff. Mar. 26, 1903;—CL 1915, 11176;—CL 1929, 10457;—CL 1948, 456.151;—Am. 1982, Act 111, Imd. Eff. Apr. 19, 1982.

## **CEMETERY CORPORATIONS; TRANSFER OF RIGHTS TO MUNICIPAL CORPORATION**

### **Act 10 of 1927**

AN ACT to authorize cemetery corporations, partnerships, limited liability companies, and other legal entities to sell, assign, or convey property rights, franchises, and liabilities to a municipal corporation.

**History:** 1927, Act 10, Eff. Sept. 5, 1927;—Am. 2002, Act 551, Imd. Eff. July 26, 2002.

*The People of the State of Michigan enact:*

#### **456.181 Cemetery corporations; sale to municipal corporation; definitions.**

Sec. 1. (1) A legal entity organized under any law of this state for the purpose of establishing or maintaining a cemetery may sell, assign, transfer, or convey to any municipal corporation in which the cemetery is located or to any municipal corporation within 10 miles of the municipal corporation in which that cemetery is located all or any part of its assets, rights, franchises, and liabilities. The sale, assignment, transfer, or conveyance may also be as a result of the disposition of the cemetery and its assets and liabilities under a receivership or conservatorship action under section 9 of the cemetery regulation act, 1968 PA 251, MCL 456.529.

(2) The sale, assignment, transfer, or conveyance under subsection (1) may be according to terms as are ordered or mutually agreed upon, under either of the following circumstances:

(a) The owner, partner, or a majority of the owners, stockholders, partners, or members of the stock or other evidence of ownership or control issued by the legal entity present and voting at a special meeting called for that purpose.

(b) Pursuant to an order of a court of competent jurisdiction as described in subsection (1).

(3) As used in this act:

(a) "Legal entity" means a sole proprietorship, partnership, corporation, limited liability company, or any other entity.

(b) "Municipal corporation" means a county, township, city, or village.

**History:** 1927, Act 10, Eff. Sept. 5, 1927;—CL 1929, 10458;—Am. 1933, Act 185, Eff. Oct. 17, 1933;—Am. 1945, Act 345, Eff. Sept. 6, 1945;—Am. 1947, Act 268, Imd. Eff. June 27, 1947;—CL 1948, 456.181;—Am. 2002, Act 551, Imd. Eff. July 26, 2002.

#### **456.182 Resolution of directors; special meeting; transfer of cemetery to municipal corporation.**

Sec. 2. (1) Except as otherwise provided in subsection (2), the governing board of the legal entity, as applicable, may at a regular meeting pass a resolution containing the substance of the contract of conveyance proposed to be entered into between the legal entity and a municipal corporation and calling a special meeting of the owners, partners, members, or stockholders for the purpose of authorizing that transfer.

(2) A cemetery may be transferred to a municipal corporation in which the cemetery is located pursuant to a court order issued as a result of a receivership or conservatorship action conducted under section 9 of the cemetery regulation act, 1968 PA 251, MCL 456.529, without a resolution executed by the governing board of the legal entity under subsection (1).

**History:** 1927, Act 10, Eff. Sept. 5, 1927;—CL 1929, 10459;—CL 1948, 456.182;—Am. 2002, Act 551, Imd. Eff. July 26, 2002.

#### **456.183 Notice of special meeting; publication.**

Sec. 3. (1) Except as otherwise provided for in subsection (2), notice of a meeting pursuant to section 2 shall be given by publication of a notice for 6 consecutive weeks previous to the time of holding the meeting in a newspaper published and circulated in the county in which the legal entity has its principal office or place of business. The notice shall state the time and place of the meeting, its purpose, and the substance of the proposed contract of conveyance. Proof of publication shall be filed with the secretary of the legal entity, as applicable, on or before the date of meeting.

(2) This section does not apply if the sale, assignment, transfer, or conveyance is the result of the disposition of the cemetery and its assets and liabilities under a receivership or conservatorship under section 9 of the cemetery regulation act, 1968 PA 251, MCL 456.529.

**History:** 1927, Act 10, Eff. Sept. 5, 1927;—CL 1929, 10460;—Am. 1933, Act 185, Eff. Oct. 17, 1933;—CL 1948, 456.183;—Am. 2002, Act 551, Imd. Eff. July 26, 2002.

#### **456.184 Legal rights and privileges unaffected by sale; duties of municipal corporation.**

Sec. 4. (1) The legal rights and privileges, statutory or otherwise, of the owners, stockholders, partners, or members are not affected by the contract or conveyance by which the cemetery property is transferred to a

municipal corporation. The municipal corporation shall assume and perform all liabilities, charges, and duties, statutory or otherwise, imposed upon or assumed by the municipal corporation, fully perform all existing contracts or agreements of the cemetery, and carry out and perform all provisions as to maintenance whether imposed upon the legal entity by statute or assumed by its bylaws or other originating documentation.

(2) Any fund for maintenance as provided by statute or by the bylaws or other originating documentation of the legal entity shall be turned over to the municipal corporation and preserved, applied, and used as required under statute or under bylaws or other originating documents.

**History:** 1927, Act 10, Eff. Sept. 5, 1927;—CL 1929, 10461;—CL 1948, 456.184;—Am. 2002, Act 551, Imd. Eff. July 26, 2002.



## **CREMATION COMPANIES**

### **Act 58 of 1915**

AN ACT to provide for the incorporation of cremation companies and associations; and to impose certain duties upon the department of commerce.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—Am. 1982, Act 114, Imd. Eff. Apr. 19, 1982.

*The People of the State of Michigan enact:*

#### **456.201 Cremation companies; incorporators, purposes.**

Sec. 1. Five or more persons, who shall, by articles of agreement in writing, associate themselves according to the provisions of this act, under any name assumed by them, for the purpose of providing the necessary appliances for the disposal by cremation of the bodies of the dead, and for the purpose of purchasing land for a crematorium or columbarium, or both, in this state, and for fencing, laying out, improving, establishing and maintaining said land, and who shall comply with sections 2, 3 and 4 of this act, shall, with their successors and assigns, constitute a body politic or corporate, under the name assumed by them in their articles of association: Provided, however, That no 2 corporations shall assume the same name.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11177;—CL 1929, 10462;—CL 1948, 456.201.

#### **456.202 Articles of agreement; signing, acknowledgment, contents.**

Sec. 2. The articles of agreement of every corporation formed under the provisions of this act shall be signed by the persons associating in the first instance, and acknowledged before some person authorized by the laws of this state to take the acknowledgment of deeds, and shall state:

1. The object for which it is organized.
2. The amount of land which it owns or proposes to purchase, and the town and county in which the same is situated.
3. The amount of its capital stock and the number of shares into which the same shall be divided.
4. The name by which such corporation shall be known.
5. The names of those who shall constitute the first board of directors, and the name of the first treasurer.
6. The names of the subscribers to the articles of association, and the number of shares subscribed by each, toward the required capital.
7. The term of duration of such corporation, which shall not exceed 30 years.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11178;—CL 1929, 10463;—CL 1948, 456.202.

#### **456.203 Certificate of organization; signatures; filing certificate with department of commerce.**

Sec. 3. Within 1 week after the organization of any corporation organized under this act, the secretary shall make out a certificate of the organization of such corporation, giving the information referred to in section 2, which certificate shall be signed by the president and secretary of such corporation, and shall forthwith file such certificate with the corporation and securities bureau of the department of commerce.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11179;—CL 1929, 10464;—CL 1948, 456.203;—Am. 1982, Act 114, Imd. Eff. Apr. 19, 1982.

#### **456.204 Holding of land.**

Sec. 4. Such corporation shall have power to acquire by gift, devise or purchase, and hold in fee simple so much land as may be necessary and appropriate for its purposes: Provided, That no land thus held shall be in any way encumbered by such corporation.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11180;—CL 1929, 10465;—CL 1948, 456.204.

#### **456.205 Tax exemption; exception.**

Sec. 5. All the lands of said corporation enclosed and set apart for crematorium or columbarium purposes, and all the buildings erected thereon, used for such purposes as well as all rights of inurnment therein, shall be wholly exempt from taxation of any kind whatsoever except special assessments for public improvements: Provided, That all stock owned by said stockholders shall be taxed in the manner provided by law.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11181;—CL 1929, 10466;—CL 1948, 456.205.

#### **456.206 Encumbrance of certain property prohibited.**

Sec. 6. No mortgage or other lien or encumbrance, shall be executed upon the lands or buildings of such corporation actually used for the disposal of the dead as specified in the provisions of this act.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11182;—CL 1929, 10467;—CL 1948, 456.206.

#### **456.207 Annual meeting; election of directors, term; right to vote; special meetings.**

Sec. 7. The annual meeting of every such corporation shall be held on the second Monday of May in each year, unless some other day shall be fixed by the by-laws thereof, and in such case it shall be held upon the day so fixed. The participants at the initial annual meeting shall elect a board of directors of 7, of which 3 shall serve for 1 year and 4 for 2 years, their successors at subsequent annual meetings being elected in each case for a period of 2 years. These directors shall hold office until their term expires and their successors shall be chosen, and shall transact such business relating to the affairs of the corporation as may properly come before them. At such meetings the owners of stock shall have the right to vote, either in person or by proxy, in proportion to the amount of stock held by them respectively, each owner thereof being entitled to 1 vote for each share of stock. Special meetings of any such corporation may be provided for by the by-laws thereof, and shall be held when called in accordance with such provision.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11183;—CL 1929, 10468;—CL 1948, 456.207.

#### **456.208 Officers; selection.**

Sec. 8. It shall be the duty of said board of directors to choose from their own number a president and vice-president, and also to elect suitable persons as treasurer and secretary of such corporation, and from time to time to appoint a superintendent and such other subordinate officers as may be required by the by-laws.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11184;—CL 1929, 10469;—CL 1948, 456.208.

#### **456.209 Directors; powers.**

Sec. 9. The board of directors shall have the general management of such corporation, and shall have the power: To purchase land for such company or association, but for no other purpose; to levy assessments upon the subscribers to the articles of association, not exceeding the amount severally subscribed by them payable at such times as the directors shall determine, and to enforce the collection thereof either by suit or forfeiture; to maintain and operate a crematorium or columbarium, or both, and to dispose of niches in the aforesaid urn-hall, fix the prices thereof and to guarantee to the owners of niches the perpetual maintenance and care of said columbarium. To invest the moneys received from incinerations or the sale of niches or both, and to prescribe, from time to time, the interest or dividends which shall be paid to holders of the stock of such corporation, subject to the restrictions hereinafter named.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11185;—CL 1929, 10470;—CL 1948, 456.209.

#### **456.210 Records of cremations; contents.**

Sec. 10. It shall be the duty of any company or association incorporated under this act, to keep a record showing the name, age, and last place of residence of every person incinerated in the crematorium maintained by said corporation, as well as the number of the cremation permit and name of the officiating undertaker.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11186;—CL 1929, 10471;—CL 1948, 456.210.

#### **456.211 Records of niches.**

Sec. 11. Corporations organized under this act and operating a columbarium shall also keep a record of the names and addresses of the owners of niches, as well as the numbers of the niches to which they hold title and names of deceased whose remains are inurned therein.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11187;—CL 1929, 10472;—CL 1948, 456.211.

#### **456.212 Grounds; laying out, improvement.**

Sec. 12. It shall be the duty of such board of directors to lay out and embellish the grounds, and to see that they are well kept and in good condition.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11188;—CL 1929, 10473;—CL 1948, 456.212.

#### **456.213 Sale of niches; trust fund, investment and use.**

Sec. 13. One-half of the moneys received from the sale of niches shall be transferred to a trust fund until a sufficient amount has accumulated to insure the perpetual maintenance, and care of the columbarium, in which case they may be diverted to the treasury of the corporation. Moneys received for the trust fund shall only be invested in such securities as are considered legal investments for banks and trust companies in the state of Michigan. All interest received from such investments, however, shall be payable to the treasurer of

the corporation and be used as aforesaid.

**History:** 1915, Act 58, Eff. Aug. 24, 1915;—CL 1915, 11189;—CL 1929, 10474;—CL 1948, 456.213.

**VAULT ASSOCIATIONS**  
**Act 13 of 1882 (Ex. Sess.)**

AN ACT to authorize the formation of vault associations in the state of Michigan for the purpose of preserving and protecting bodies of deceased persons before burial; and to impose certain duties upon the department of commerce.

**History:** 1882, Ex. Sess., Act 13, Imd. Eff. Mar. 14, 1882;—Am. 1982, Act 112, Imd. Eff. Apr. 19, 1982.

*The People of the State of Michigan enact:*

**456.251 Articles of agreement; execution, acknowledgment, and filing; signers of articles and associates as body politic and corporate.**

Sec. 1. That any 5 or more persons desirous to organize an association for the purpose of preserving and protecting bodies of deceased persons before burial, may execute under their hands and acknowledge before some person authorized to take the acknowledgment of deeds, the duplicate articles of agreement, as hereinafter specified, 1 copy whereof shall be filed with the corporation and securities bureau of the department of commerce, and upon the execution and acknowledgment of such articles and the filing thereof, the signers thereof, and those who may hereafter become associated with them, shall become a body politic and corporate for the purpose set forth in said articles.

**History:** 1882, Ex. Sess., Act 13, Imd. Eff. Mar. 14, 1882;—How. 4789a;—CL 1897, 8413;—CL 1915, 11200;—CL 1929, 10475;—CL 1948, 456.251;—Am. 1982, Act 112, Imd. Eff. Apr. 19, 1982.

**456.252 Vault associations; articles of association, contents.**

Sec. 2. The articles of association shall contain:

First, The full names of the persons associating in the first instance, and the place of residence of each person,

Second, The name of such corporation, and the place where its office for the transaction of business is located and the period for which it is incorporated, not exceeding 30 years,

Third, The object for which it is organized,

Fourth, The number and names of its trustees, if any, and regular officers, and the time and place of holding its annual meeting,

Fifth, The terms and conditions of membership therein,

Sixth, Amount of capital stock, number of shares, by whom taken, value of each share, and amount paid in on each share.

**History:** 1882, Ex. Sess., Act 13, Imd. Eff. Mar. 14, 1882;—How. 4789b;—CL 1897, 8414;—CL 1915, 11201;—CL 1929, 10476;—CL 1948, 456.252.

**456.253 Vault associations; corporate powers.**

Sec. 3. Said association may purchase or take by devise or gift, hold, and convey, real estate not exceeding 3 acres of land, and may erect thereon, a vault and such other suitable buildings necessary to carry out the objects of said association.

**History:** 1882, Ex. Sess., Act 13, Imd. Eff. Mar. 14, 1882;—How. 4789c;—CL 1897, 8415;—CL 1915, 11202;—CL 1929, 10477;—CL 1948, 456.253.

**STATE CEMETERY COMMISSION**  
**Act 337 of 1966**

**456.501-456.514 Repealed. 1968, Act 251, Eff. Sept. 15, 1968.**

## CEMETERY REGULATION ACT

### Act 251 of 1968

AN ACT to regulate the creation and management of cemeteries; to provide for a cemetery commissioner, and to prescribe the powers and duties of the commissioner; to require the registration and audit of cemeteries; to provide for long-term care of certain cemeteries; to regulate persons selling burial, entombment, or columbarium rights; and to prescribe remedies and penalties.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

#### **456.521 Cemetery regulation act; short title.**

Sec. 1. This act shall be known and may be cited as the “cemetery regulation act”.

**History:** 1968, Act 251, Eff. Sept. 15, 1968.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.522 Definitions.**

Sec. 2. As used in this act:

(a) “Cemetery” means 1 or a combination of more than 1 of the following:

(i) A burial ground for earth interments.

(ii) A mausoleum for crypt entombments.

(iii) A crematory for the cremation for human remains.

(iv) A columbarium for the inurnment of cremated remains.

(b) “Interment” means the disposition of human remains by earth interment, entombment, or inurnment.

(c) “Burial right” means a right of earth interment.

(d) “Entombment right” means the right of crypt entombment in a mausoleum or in an aboveground vault.

(e) “Columbarium right” means the right of inurnment in a columbarium for cremated remains.

(f) “Mausoleum” means a building or other aboveground structure that is affixed to land and is a permanent repository for human remains.

(g) “Crypt” means a chamber in a mausoleum of sufficient size to entomb the uncremated remains of a deceased person.

(h) “Columbarium” means a building or other aboveground structure that is affixed to land and is a permanent repository for cremated human remains.

(i) “Crematory” means a building or structure, within which the remains of deceased persons are or are intended to be cremated.

(j) “Cremation” means the incineration of the body of the deceased person.

(k) “Cemetery commissioner” or “commissioner” means the director of the department of labor and economic growth or a designee of the director.

(l) “Municipal corporation” means that term as defined in section 1 of 1927 PA 10, MCL 456.181.

(m) “Person” means an individual, group of individuals, sole proprietorship, partnership, limited liability company, association, corporation, government agency, cemetery, or a combination of these legal entities.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1978, Act 290, Eff. July 10, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.522a Commissioner, spouse, or child; financial interest in cemetery, supplier, or funeral establishment prohibited.**

Sec. 2a. The cemetery commissioner, or the commissioner's spouse or child, shall not have a financial interest in a cemetery, a supplier of cemetery services or cemetery memorials, or a funeral establishment as defined in section 1801 of Act No. 299 of the Public Acts of 1980, being section 339.1801 of the Michigan Compiled Laws.

**History:** Add. 1982, Act 132, Imd. Eff. Apr. 20, 1982.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

**456.523-456.527 Repealed. 1982, Act 132, Imd. Eff. Apr. 20, 1982.**

**Compiler's note:** The repealed sections pertained to the creation and membership of the state cemetery commission.

**456.528 Commissioner; rules.**

Sec. 8. The commissioner may promulgate rules in accordance with and subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement and administer this act, including rules regarding all of the following:

- (a) The maintenance of records relative to the financial aspects of cemeteries.
- (b) Requirements for applications for the granting of permits and registrations required under this act.
- (c) The formal and informal procedures governing the conduct of contested cases under this act before the commissioner or an authorized hearing officer.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

**Administrative rules:** R 456.101 et seq. of the Michigan Administrative Code.

**456.529 Commissioner; hearings; oaths; testimony; witnesses; production of books and records; subpoena; violation of act, rule, or order; cease and desist order; assurance of discontinuance; action to enforce compliance; injunction or restraining order; appointment of receiver or conservator; bond not required; denial of application; suspension or revocation of permit or registration.**

Sec. 9. (1) The commissioner may hold hearings, administer oaths, take testimony under oath, and request in writing the appearance and testimony of witnesses, including the production of books and records. Upon the refusal of a witness to appear, testify, or submit books and records after a written request, the commissioner or a party to a contested case may apply to the circuit court for Ingham county for a subpoena or a subpoena duces tecum. The court shall issue a subpoena when reasonable grounds are shown.

(2) When it appears to the commissioner that a person or registrant has violated this act or a rule promulgated or order issued under this act, the commissioner may do 1 or more of the following:

- (a) Issue a cease and desist order.
  - (b) Accept an assurance of discontinuance.
  - (c) Bring an action in the circuit court for the county in which the person resides or in the circuit court for the county of Ingham, to enforce compliance with this act or a rule promulgated or order issued under this act.
- (3) Upon a proper showing regarding an action brought under subsection (2)(c), a permanent or temporary injunction or a restraining order may be granted and a receiver or conservator may be appointed by the court. A receiver or conservator appointed by the court may take possession of the assets and may sell, assign, transfer, or convey the cemetery, including a cemetery in receivership on the July 26, 2002 date of the amendatory act that amended this subsection, to a municipal corporation or other person other than the holder of a license for the practice of mortuary science or a person who owns, manages, supervises, operates, or maintains, either directly or indirectly, a funeral establishment, under conditions prescribed by the court, in order to discharge outstanding contractual obligations. A receiver appointed under this section has all the powers, authority, and remedies of an assignee for the benefit of creditors under chapter 52 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5201 to 600.5265. The court may allow the receiver or conservator to file for protection under the bankruptcy code.

(4) In the order of sale of the cemetery, the court shall make provision for notice to creditors and the filing of claims against the receivership or conservatorship. Any remaining funds held by the cemetery in escrow under this act belong to the contract buyers or beneficiaries of the contract buyers and shall not be distributed to the general creditors of the cemetery. This section does not prohibit the court from allowing the sale of the cemetery to a person other than the holder of a license for the practice of mortuary science or a person who owns, manages, supervises, operates, or maintains, either directly or indirectly, a funeral establishment or municipal corporation.

(5) In addition to an action taken under this section, the commissioner may deny an application or may suspend or revoke a permit or registration after a hearing as set forth in this act.



**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2002, Act 550, Imd. Eff. July 26, 2002;—Am. 2003, Act 289, Imd. Eff. Jan. 8, 2004;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.530 Commissioner; auditing trust funds; registration of cemeteries; exemptions; municipal ordinances.**

Sec. 10. (1) The commissioner shall institute and maintain a system of auditing trust funds required by this act and of registering each cemetery authorized to be created, maintained, and operated under 1869 PA 12, MCL 456.101 to 456.119, and 1855 PA 87, MCL 456.1 to 456.36, and conducting sales under the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235, as well as any other cemetery operating under state law or local ordinance. A cemetery owned and operated by a municipal corporation, church, or religious institution is exempt from this act. However, a municipal corporation may pass ordinances necessary for regulating that municipal corporation's cemeteries.

(2) A cemetery for earth interment of 10 acres or less in size, which is owned and operated entirely and exclusively by an existing nonprofit entity and in which a burial has taken place before September 15, 1968, is exempt from the fee provisions of this act, shall have the trust fund required by this act audited at the discretion of the commissioner, and is exempt from the endowment care trust fund requirements of section 16, except for the report requirements if the cemetery maintains care or memorial funds.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 1982, Act 289, Imd. Eff. Oct. 7, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.531 Commissioner; registration fee; renewal blank and notice.**

Sec. 11. The commissioner shall charge an annual registration fee of \$20.00 per year for each cemetery registered. Not less than 90 days before the expiration date prescribed in section 15, the commissioner shall cause a renewal blank to be mailed to each registrant, together with a notice advising the registrant of the time and procedures for renewal of a registration.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.532 Permit for registration required; acquisition of controlling interest in cemetery company; application for certificate of approval; contents; issuance; fee; noncompliance; hearing; action to ensure compliance; "controlling interest" defined.**

Sec. 12. (1) A person shall not establish a cemetery without a valid permit or operate an existing cemetery except under a valid registration issued under this act.

(2) If a person proposes to purchase or otherwise acquire a controlling interest in an existing cemetery company, that person shall first apply to the commissioner for a certificate of approval of a proposed change of control of a cemetery company. The application shall contain the name and address of the proposed new owner or operator and other information as the commissioner requires. The commissioner shall issue a certificate of approval only after he or she is satisfied that the proposed new owner is qualified by character, experience, and financial responsibility to control and operate the cemetery in a legal and proper manner, and that the interest of the public generally will not be jeopardized by the proposed change in ownership and management. The application for a purchase or change of control must be accompanied by an initial filing or investigation fee of \$500.00. If a person fails to comply with this section, the commissioner shall order that an administrative hearing be held. If a transfer of controlling interest is found to have taken place without prior commissioner approval, the commissioner may suspend or revoke the registration of the cemetery or take other appropriate action until it demonstrates compliance with this section.

(3) As used in this section, "controlling interest" means the capability to decide the operating and financial policies of the cemetery company or to select the officers or directors with majority control of the cemetery company.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.532a Examining affairs of cemetery or person; inspection or audit of books, papers, records, and documents; audit charges.**

Sec. 12a. (1) The commissioner or an examiner, investigator, or other person the commissioner may appoint, may visit and examine the affairs of any cemetery or person required to register under this act and shall have free access to the books, papers, records, and documents that relate to the business of the cemetery corporation, person, or agent acting on its behalf.

(2) The books, papers, records, and documents shall be available for inspection or audit at any time during regular business hours with reasonable notice. One or more qualified persons shall conduct the audit whose services shall be charged to and paid by the cemetery at the rate of \$10.00 per hour, but not more than \$1,000.00 total.

**History:** Add. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.533 Establishment of cemetery; application for permit; investigation fee.**

Sec. 13. (1) Any person desiring to establish a cemetery shall file with the commissioner, on forms furnished by the commissioner, an application for a permit to establish a cemetery. The application shall be accompanied by an investigation fee of \$500.00.

(2) After a receipt of an application, the commissioner shall conduct an investigation pertaining to the physical plans, the community need for the planned cemetery, and pertinent information pertaining to the applicant's experience, financial stability, ability, and integrity. If the applicant is not a natural person, the same investigation shall be made of the general manager and principal owners.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.534 Granting or refusing to grant permit; denial of application; procedures.**

Sec. 14. After receipt of the investigation fee and application, and after investigation, the commissioner shall grant or refuse to grant the permit. If the commissioner decides to deny the application for a permit, he or she shall follow the procedure set forth in section 19.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.535 Registration of cemetery; time; application; form; fee; expiration; procedure for denying registration; late penalty filing fee.**

Sec. 15. (1) Each person operating a cemetery shall register the cemetery by filing with the commissioner a registration application before June 2 of each year, on a form furnished by the commissioner, and accompanied by the registration fee. A registration expires on July 1 of each year.

(2) If the commissioner intends to deny registration, the procedure set forth in section 19 shall be followed. The commissioner may impose a late penalty filing fee of \$10.00 per day on a person which filed a registration application after June 1.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.535a Witness fee; prohibition.**

Sec. 15a. A registrant shall not charge a fee for witnessing the lowering of a casket into the ground.

**History:** Add. 1996, Act 112, Imd. Eff. Mar. 5, 1996.

**456.536 Irrevocable endowment care fund; establishment and maintenance; annual report; application for care fund deposit modification or waiver; expenses; agent or seller; deposit requirements; merchandise trust account; deposit for sale of burial vaults or containers; repayment; installation of vault; contents of cemetery merchandise and services contract; annual report by cemetery or agent; deficit in amount of required deposits; penalty; hearing; additional penalty; disposition of fees, charges, and penalties; "endowment care" defined.**

Sec. 16. (1) The commissioner shall require each cemetery to establish and maintain an irrevocable endowment care fund as required by section 35a of 1855 PA 87, MCL 456.35a, or section 7a of 1869 PA 12, MCL 456.107a, and to report annually before July 1 of each year, on forms approved and furnished by the commissioner, care fund information required to be reported to the commissioner by other statutes and information regarding the funds as the commissioner considers pertinent in the public interest. A cemetery applying to the commissioner as authorized by other statutes for a care fund deposit modification or waiver shall be assessed the actual expenses for an examination or investigation by the commissioner. The commissioner shall require each person engaged as agent or seller, as a means of livelihood either part time or full time, in the selling of burial rights, entombment rights, or columbarium rights owned by a party other than a cemetery or corporation subject to the irrevocable endowment care fund requirements of other laws, to deposit 15% of all gross proceeds received from the sales of those rights into the irrevocable endowment care fund of the cemetery in which the rights are located if an irrevocable endowment care fund exists for that cemetery. Excess sums on deposit in the fund can be applied by a cemetery against future deposits. A deposit required to be made by those persons shall be modified or waived if the cemetery has received an irrevocable endowment care fund deposit modification or waiver approved by the commissioner. The total deposit for a single adult burial right sale or assignment shall not be less than \$20.00.

(2) Subject to subsection (8), a cemetery which is required to register pursuant to this act and an agent which is authorized by a cemetery or acting on its behalf under an agreement or sales contract to sell cemetery merchandise or cemetery services shall establish a merchandise trust account and deposit a percentage of the gross proceeds received from the sales as determined by the commissioner. The merchandise trust account shall be maintained exclusively for the deposit of the money into a state or national bank, a state or federally chartered savings and loan association, or a trust company under the terms of a written trust agreement approved by the commissioner. It shall be the responsibility of each registrant under this act to assure that documents relating to the merchandise trust account are provided to the commissioner upon request. If a subpoena is issued to obtain these documents, the registrant shall pay all costs related to obtaining the documents regardless of the \$100.00 charge limitation contained in section 12a(2). The funds shall be deposited not later than the month following their receipt.

(3) Subject to subsection (8), the total deposits to a merchandise trust for the sale of cemetery burial vaults or other outside containers, other than crypts installed underground and sold as part of a cemetery lot, shall at all times be not less than the greater of \$100.00 per vault or outside container or 130% of the total costs of the containers covered by the trust. Money deposited in connection with a sale shall be repaid within 30 days upon written demand of purchaser. A burial vault shall be installed only at need or by separate written authorization of the purchaser. The cemetery shall have the right to withdraw the amount on deposit for the delivered vault or outside container.

(4) Subject to subsection (8), a contract or agreement made with a purchaser of cemetery merchandise and cemetery services shall contain a complete description of the cemetery merchandise purchased and of the cemetery services to be rendered.

(5) The commissioner shall require each cemetery or agent authorized by it acting on its behalf to report annually before July 1 of each year on forms provided by the commissioner. The reports shall contain information as the commissioner considers necessary to ascertain that this act is being implemented.

(6) If, after an audit by the commissioner's staff, a deficit in the amount of required deposits to the trust funds is found, the commissioner may assess a penalty not to exceed 10% of the amount of the deficit. The cemetery or entity of a cemetery may request an administrative hearing before the commissioner within 30 days after being notified of a deficit by the commissioner. If, following the administrative hearing, the commissioner determines that a deficit does exist, an additional penalty not to exceed 1.5% may be assessed each month on the unpaid monthly balance until the deficit is paid in full.

(7) All fees, charges, and penalties collected under this act, other than fines prescribed in section 21, shall be paid to the commissioner. Upon receipt, the commissioner shall remit funds received to the department of treasury for deposit in the general fund of the state.

(8) Any preneed contracts for cemetery merchandise or services entered into on or after January 1, 2005 are subject to the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(9) As used in this section, "endowment care" means all general work necessary to keep the cemetery property in a presentable condition at all times, including, but not limited to, the cutting of grass at reasonable intervals; raking, cleaning, filling, seeding, and sodding of graves; replacement, pruning, or removal of shrubs and trees in order to assure access to interment rights; and the repair and maintenance of enclosures, buildings, drives, walks, and the various memorial gardens.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2003, Act 89, Imd. Eff. July 24, 2003;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.536a Preconstruction sales of crypts or niches.**

Sec. 16a. A person shall not develop or build a mausoleum or columbarium and engage in preconstruction sales of crypts or niches in a mausoleum or columbarium unless that person does both of the following:

(a) Agrees to complete the mausoleum or columbarium within 4 years after the date of the first sale of an entombment or inurnment right in the proposed mausoleum or columbarium or, if construction is not completed within that time and upon the request of the purchaser, agrees to offer to the purchaser a refund of 100% of the purchase price with interest calculated at the rate of 4% per annum.

(b) Agrees that if the person for whom the entombment or inurnment right in the proposed mausoleum or columbarium dies before completion of the mausoleum or columbarium, an alternative disposition of the remains shall be provided until completion of the mausoleum or columbarium or until a refund is made of 100% of the purchase price with interest calculated at the rate of 4% per annum.

**History:** Add. 2004, Act 22, Eff. Jan. 1, 2005.

#### **456.537 Repealed. 1982, Act 132, Imd. Eff. Apr. 20, 1982.**

**Compiler's note:** The repealed section pertained to the licensing of salesmen and trainees.

#### **456.538 Denial, suspension, or revocation of permit or registration, and other disciplinary action; grounds; effect; fulfillment of contractual obligations and agreements; administrative fine.**

Sec. 18. (1) The commissioner may deny an application filed under this act and refuse to issue a permit or registration, or may suspend or revoke a permit or registration, or may reprimand, place on probation, or take other disciplinary action against the applicant if the commissioner's investigation reveals facts which, with reference to the establishment of a cemetery, show inappropriate physical plans; lack of community need; inadequate experience, financial stability, or integrity to protect the public welfare; or when the commissioner finds that the applicant or its officers or general manager has done 1 or more of the following:

(a) Made a false statement of a material fact in the application.

(b) Not complied with this act.

(c) Been guilty of an unlawful or fraudulent act in connection with selling or otherwise dealing in cemetery lots and burial rights regulated by this act or funeral or cemetery merchandise and services regulated by the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(d) Been guilty in the judgment of the commissioner of other conduct whether of the same or different character than specified in this act which constitutes dishonest and unfair dealing.

(e) Violated article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812.

(f) Violated the terms of an assurance of discontinuance entered into with the commissioner pursuant to section 9(2).

(g) Violated the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(h) Failed to comply with section 2080 of the insurance code of 1956, 1956 PA 218, MCL 500.2080.

(i) Adopted, enforced, or attempted to enforce a regulation of the cemetery that prohibits the installation of a grave memorial or burial vault unless the grave memorial or burial vault was purchased from the cemetery. This subdivision does not prohibit a cemetery from adopting and enforcing consistent rules and regulations to be followed by both the cemetery and outside vendors as to the quality, size, shape, type, installation, and maintenance of the grave memorial or burial vault.

(2) If the commissioner denies an application for a permit or registration, or suspends or revokes an existing permit or registration required by this act, the denial, revocation, or suspension shall revoke the cemetery operation as to the sale or assignment of burial rights, entombment rights, or columbarium rights,

cemetery merchandise, or cemetery services after the date of the suspension, revocation, or denial. The corporation shall fulfill all contractual obligations and agreements entered into before the date of the suspension, revocation, or denial, and shall make required interments for the owners of burial rights, entombment rights, or columbarium rights purchased before the date of suspension, revocation, or denial.

(3) The commissioner may impose an administrative fine of not more than \$5,000.00 for each separate violation of this act.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.539 Denial, suspension, or revocation of permit or registration; notice of intent; hearing; decision.**

Sec. 19. If the commissioner intends to deny an application for a permit to establish a cemetery, to refuse registration of an existing cemetery, or to suspend or revoke a registration, the commissioner shall give written notice to the person involved of that intent. The notice shall state a time and a place for hearing before the commissioner or a designated hearing officer, and a summary statement of the reasons for the proposed action. The notice of intent shall be mailed by certified mail to the applicant at least 15 days before the scheduled hearing date. The commissioner shall hold a hearing pursuant to the notice in the manner required by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and the rules of procedure adopted by the commissioner. The commissioner shall issue a written decision.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.540 Appeal.**

Sec. 20. Any person aggrieved by the decision of the commissioner rendered under section 19 may appeal to the circuit court as provided in chapter 6 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.301 to 24.306 of the Michigan Compiled Laws.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.541 Violations; penalties.**

Sec. 21. (1) A person who violates this act is guilty of a misdemeanor, and, if a natural person, the first offense shall be punishable by a fine of not more than \$100.00 or imprisonment for not more than 90 days, and a second offense shall be punishable by a fine of not more than \$500.00 or imprisonment for not more than 1 year, or both.

(2) If the violator is other than a natural person, the first offense shall be punishable by a fine of not more than \$100.00 and the second offense shall be punishable by a fine of not more than \$1,000.00.

**History:** 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 215, Imd. Eff. June 5, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.542 Repeal.**

Sec. 22. Act No. 337 of the Public Acts of 1966, being sections 456.501 to 456.514 of the Compiled Laws of 1948, is repealed.

**History:** 1968, Act 251, Eff. Sept. 15, 1968.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

#### **456.543 Effective date of act.**

Sec. 23. This act shall take effect September 15, 1968.

**History:** 1968, Act 251, Eff. Sept. 15, 1968.

**Compiler's note:** For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.